

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1111

Citations Affected: IC 36-2-11-16.

Synopsis: Requirements for recording documents and copies. Conference committee report for EHB 1111. Requires (rather than allows) a recorder to record a document or a copy of a document if: (1) the document complies with other statutory recording requirements; and (2) the document or copy will produce a clear and unobstructed copy. Provides that a recorded copy has the same effect as if the original document had been recorded. Requires a copy of an instrument presented for recording to be marked as a copy in order for the recorder to receive the instrument for recording. (Current law requires the recorder to mark the instrument as a copy.) Specifies that a provision in current law, which states that a recorded mortgage not meeting certain statutory requirements constitutes constructive notice, applies regardless of when the mortgage was recorded. **(This conference committee report requires a copy of an instrument presented for recording to be marked as a copy in order for the recorder to receive the instrument for recording.)**

Effective: July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1111 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 2, delete lines 5 through 42, begin a new paragraph and insert:
- 2 "SECTION 2. IC 36-2-11-16 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) This section
- 4 does not apply to:
- 5 (1) an instrument executed before November 4, 1943;
- 6 (2) a judgment, order, or writ of a court;
- 7 (3) a will or death certificate; or
- 8 (4) an instrument executed or acknowledged outside Indiana.
- 9 (b) Whenever this section prescribes that the name of a person be
- 10 printed, typewritten, or stamped immediately beneath ~~his~~ **the person's**
- 11 signature, the signature must be written on the instrument, directly
- 12 preceding the printed, typewritten, or stamped name, and may not be
- 13 superimposed on that name so as to render either illegible. However,
- 14 the instrument may be received for record if the name and signature
- 15 are, in the discretion of the county recorder, placed on the instrument
- 16 so as to render the connection between the two apparent.
- 17 (c) **Except as provided in subsection (d),** the recorder may receive
- 18 for record an instrument only if **all of the following requirements are**
- 19 **met:**
- 20 (1) The name of each person who executed the instrument is
- 21 legibly printed, typewritten, or stamped immediately beneath
- 22 ~~his~~ **the person's** signature or the signature itself is printed,

typewritten, or stamped.

(2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his the~~ signature **of the witness** or the signature itself is printed, typewritten, or stamped.

(3) The name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his the~~ signature **of the notary public** or the signature itself is printed, typewritten, or stamped. ~~and~~

(4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in ~~his the~~ **the person's** signature, and beneath ~~his the~~ **the person's** signature.

(5) If the instrument is a copy, the instrument is marked "Copy".

~~or if subsection (d) is complied with:~~

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if **all of the following requirements are met:**

(1) A printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument.

(2) The affidavit complies with this section.

(3) The affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section. ~~and~~

(4) When the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(5) If the instrument is a copy, the instrument is marked "Copy".

(e) The recorder ~~may~~ **shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

~~All copies accepted for recording shall be marked as copies by the recorder.~~

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. **A recorded copy shall have the same effect as if the original document had been recorded."**

Delete page 3.

(Reference is to EHB 1111 as printed February 8, 2008.)

Conference Committee Report
on
Engrossed House Bill 1111

Signed by:

Representative Klinker
Chairperson

Senator Lawson C

Representative Foley

Senator Broden

House Conferees

Senate Conferees